



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0583

Introduced 2/5/2007, by Rep. William B. Black

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/211  
35 ILCS 10/5-20  
35 ILCS 10/5-45

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that the duration of the credit may not exceed 15 (now, 10) taxable years. In provisions setting forth requirements for applicants for the credit, provides that for projects determined to be eligible because they meet the investment and new employee criteria established by the Department of Commerce and Economic Opportunity, the Department shall approve those that will provide a return on the State's investment. Amends the Illinois Income Tax Act to make the commensurate change extending the duration of the credit to 15 years. Effective immediately.

LRB095 08936 BDD 29125 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT in relation to taxes.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 211 as follows:

6 (35 ILCS 5/211)

7 Sec. 211. Economic Development for a Growing Economy Tax  
8 Credit. For tax years beginning on or after January 1, 1999, a  
9 Taxpayer who has entered into an Agreement under the Economic  
10 Development for a Growing Economy Tax Credit Act is entitled to  
11 a credit against the taxes imposed under subsections (a) and  
12 (b) of Section 201 of this Act in an amount to be determined in  
13 the Agreement. If the Taxpayer is a partnership or Subchapter S  
14 corporation, the credit shall be allowed to the partners or  
15 shareholders in accordance with the determination of income and  
16 distributive share of income under Sections 702 and 704 and  
17 subchapter S of the Internal Revenue Code. The Department, in  
18 cooperation with the Department of Commerce and Economic  
19 Opportunity, shall prescribe rules to enforce and administer  
20 the provisions of this Section. This Section is exempt from the  
21 provisions of Section 250 of this Act.

22 The credit shall be subject to the conditions set forth in  
23 the Agreement and the following limitations:

1           (1) The tax credit shall not exceed the Incremental  
2           Income Tax (as defined in Section 5-5 of the Economic  
3           Development for a Growing Economy Tax Credit Act) with  
4           respect to the project.

5           (2) The amount of the credit allowed during the tax  
6           year plus the sum of all amounts allowed in prior years  
7           shall not exceed 100% of the aggregate amount expended by  
8           the Taxpayer during all prior tax years on approved costs  
9           defined by Agreement.

10          (3) The amount of the credit shall be determined on an  
11          annual basis. Except as applied in a carryover year  
12          pursuant to Section 211(4) of this Act, the credit may not  
13          be applied against any State income tax liability in more  
14          than 15 ~~10~~ taxable years; provided, however, that (i) an  
15          eligible business certified by the Department of Commerce  
16          and Economic Opportunity under the Corporate Headquarters  
17          Relocation Act may not apply the credit against any of its  
18          State income tax liability in more than 15 taxable years  
19          and (ii) credits allowed to that eligible business are  
20          subject to the conditions and requirements set forth in  
21          Sections 5-35 and 5-45 of the Economic Development for a  
22          Growing Economy Tax Credit Act.

23          (4) The credit may not exceed the amount of taxes  
24          imposed pursuant to subsections (a) and (b) of Section 201  
25          of this Act. Any credit that is unused in the year the  
26          credit is computed may be carried forward and applied to

1 the tax liability of the 5 taxable years following the  
2 excess credit year. The credit shall be applied to the  
3 earliest year for which there is a tax liability. If there  
4 are credits from more than one tax year that are available  
5 to offset a liability, the earlier credit shall be applied  
6 first.

7 (5) No credit shall be allowed with respect to any  
8 Agreement for any taxable year ending after the  
9 Noncompliance Date. Upon receiving notification by the  
10 Department of Commerce and Economic Opportunity of the  
11 noncompliance of a Taxpayer with an Agreement, the  
12 Department shall notify the Taxpayer that no credit is  
13 allowed with respect to that Agreement for any taxable year  
14 ending after the Noncompliance Date, as stated in such  
15 notification. If any credit has been allowed with respect  
16 to an Agreement for a taxable year ending after the  
17 Noncompliance Date for that Agreement, any refund paid to  
18 the Taxpayer for that taxable year shall, to the extent of  
19 that credit allowed, be an erroneous refund within the  
20 meaning of Section 912 of this Act.

21 (6) For purposes of this Section, the terms  
22 "Agreement", "Incremental Income Tax", and "Noncompliance  
23 Date" have the same meaning as when used in the Economic  
24 Development for a Growing Economy Tax Credit Act.

25 (Source: P.A. 94-793, eff. 5-19-06.)

1           Section 10. The Economic Development for a Growing Economy  
2 Tax Credit Act is amended by changing Sections 5-20 and 5-45 as  
3 follows:

4           (35 ILCS 10/5-20)

5           Sec. 5-20. Application for a project to create and retain  
6 new jobs.

7           (a) Any Taxpayer proposing a project located or planned to  
8 be located in Illinois may request consideration for  
9 designation of its project, by formal written letter of request  
10 or by formal application to the Department, in which the  
11 Applicant states its intent to make at least a specified level  
12 of investment and intends to hire or retain a specified number  
13 of full-time employees at a designated location in Illinois. As  
14 circumstances require, the Department may require a formal  
15 application from an Applicant and a formal letter of request  
16 for assistance.

17           (b) In order to qualify for Credits under this Act, an  
18 Applicant's project must:

19           (1) involve an investment of at least \$5,000,000 in  
20 capital improvements to be placed in service and to employ  
21 at least 25 New Employees within the State as a direct  
22 result of the project;

23           (2) involve an investment of at least an amount (to be  
24 expressly specified by the Department and the Committee) in  
25 capital improvements to be placed in service and will

1 employ at least an amount (to be expressly specified by the  
2 Department and the Committee) of New Employees within the  
3 State, provided that the Department and the Committee have  
4 determined that the project will provide a substantial  
5 economic benefit to the State; or

6 (3) if the applicant has 100 or fewer employees,  
7 involve an investment of at least \$1,000,000 in capital  
8 improvements to be placed in service and to employ at least  
9 5 New Employees within the State and that the State will  
10 receive a return on its investment as a direct result of  
11 the project.

12 (c) After receipt of an application, the Department may  
13 enter into an Agreement with the Applicant if the application  
14 is accepted in accordance with Section 5-25.

15 (Source: P.A. 93-882, eff. 1-1-05.)

16 (35 ILCS 10/5-45)

17 Sec. 5-45. Amount and duration of the credit.

18 (a) The Department shall determine the amount and duration  
19 of the credit awarded under this Act. The duration of the  
20 credit may not exceed 15 ~~10~~ taxable years. The credit may be  
21 stated as a percentage of the Incremental Income Tax  
22 attributable to the applicant's project and may include a fixed  
23 dollar limitation.

24 (b) Notwithstanding subsection (a), and except as the  
25 credit may be applied in a carryover year pursuant to Section

1 211(4) of the Illinois Income Tax Act, the credit may be  
2 applied against the State income tax liability in more than 10  
3 taxable years but not in more than 15 taxable years for an  
4 eligible business that (i) qualifies under this Act and the  
5 Corporate Headquarters Relocation Act and has in fact  
6 undertaken a qualifying project within the time frame specified  
7 by the Department of Commerce and Economic Opportunity under  
8 that Act, and (ii) applies against its State income tax  
9 liability, during the entire 15-year period, no more than 60%  
10 of the maximum credit per year that would otherwise be  
11 available under this Act.

12 (Source: P.A. 94-793, eff. 5-19-06.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.